

REMARKS

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1, 5-8, 10-11, 13, 15, 17-20, 22-24, and 41-46 are pending.

The Examiner objects to claims under 37 CFR 1.75 as being of improper dependent form. By this amendment the claims objected to have either been cancelled or amended to render this rejection moot. Accordingly, Applicants respectfully request that the Examiner withdraw this rejection.

Claims 20 and 22-26 stand rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the enablement requirement. In particular, the Examiner objects to claim 20 as being a single step claim. By this Amendment claim 20 has been amended and no longer recites a single step. Applicants respectfully request that the Examiner withdrawn this rejection.

The Examiner continues to maintain the rejection of the independent claims under 35 U.S.C. § 102(a) as being anticipated by Sako, or in the alternative under 35 U.S.C. § 103 as being obvious over Sako in view of Kondo or Shim. Applicants respectfully traverse these art grounds of rejection.

As amended, claim 1 now recites that the physical mark information is recorded “as wobbled pits in a specific area of the lead-in area not writable by end-user recorders.” While Sako does disclose the possibility that a wobbled pattern exist, Sako does not disclose or suggest wobbled pits in a specific area of the lead-in area. Furthermore neither of the secondary references relied upon by the Examiner (i.e., Kondo and Shim) disclose or suggest such a limitation. Therefore, Sako alone or Sako in combination with Kondo or Shim cannot disclose or suggest at least this limitation of claim 1.

Furthermore, claim 1 recites that the wobbled pits “provide control information for controlling a reproduction of data recorded in the data area and are formed along a modulated

unique pattern.” As stated above, while Sako does disclose a wobbled pit pattern, Sako does not teach that the wobbled pits are formed along a modulated unique pattern. Still further, Sako does not teach that the wobbled pits provide information for controlling reproduction of data recorded on the data area. Neither Kondo nor Shim make up for these deficiencies of Sako, therefore Sako alone or in combination with either Kondo or Shim fails to disclose or suggest these further limitations of claim 1.

Independent claims 13 and 20 include similar limitations to those discussed above with respect to claim 1, and are patentable for the reasons stated above with respect to claim 1.

Still further, Applicants have added new independent claim 42, which also includes similar limitations to those discussed above with respect to claim 1. Therefore, claim 42 is also patentable for at least the reasons stated above with respect to claim 1.

In rejecting the dependent claims, the Examiner relies on Sako, or a combination of Sako with Kondo, Shim, Timmerman, Ozaki, Kuroda, and/or Muramatsu. However, none of the secondary references relied upon by the Examiner discloses or suggests the limitations discussed above with respect to claim 1. Therefore, none of the suggested art combinations render independent claims 1, 13, 20 or 42 obvious to one skilled in the art. The remaining claims depend from one of these independent claims, and are patentable for at least the reasons stated above with respect to their independent claim.

In view of the above, Applicants respectfully request that the Examiner withdraw the art grounds of rejection made in this case.

CONCLUSION

In view of the above remarks and amendments, the Applicants respectfully submit that each of the pending objections and rejections has been addressed and overcome, placing the present application in condition for allowance. A notice to that effect is respectfully requested. If the Examiner believes that personal communication will expedite prosecution of this application, the Examiner is invited to contact the undersigned.

Pursuant to 37 C.F.R. §§ 1.17 and 1.136(a), Applicant(s) hereby petition(s) for a three (3) month extension of time for filing a reply to the outstanding Office Action and submit the required \$1050 extension fee herewith.

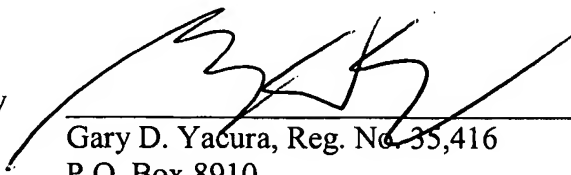
Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Gary D. Yacura, at the telephone number of the undersigned below.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 08-0750 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Respectfully submitted,

HARNESS, DICKY, & PIERCE, P.L.C.

By



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